

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

CARMELITA M. DESIDERIO,  
Personal Representative of the  
Estate of PHILLIP R. CURLEY, deceased,

Plaintiff,

v.

No. 1:23-cv-00057-SCY-KRS

UNITED STATES OF AMERICA;  
JANELLE D. JONES, M.D.; and  
JOY G. HARRISON, M.D.,

Defendants.

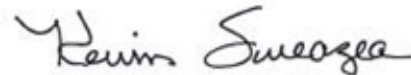
**ORDER GRANTING IN PART RENEWED  
MOTION FOR SERVICE BY PUBLICATION**

THIS MATTER is before the Court on Plaintiff's Renewed Motion Authorizing Service by Publication, (Doc. 22), filed June 7, 2023. Plaintiff seeks to serve Defendant Joy G. Harrison, M.D., by publication pursuant to Fed. R. Civ. P. 4(e)(1) and NMRA, Rule 1-004(J), and for an extension of time to accomplish service. In support of her renewed Motion, Plaintiff outlines the steps she has taken to effect service on Defendant Harrison, including affidavits from process servers and a private investigator. (Doc. 22) at 1-7; (Doc. 22-1) (Exhibit A). The Court finds that Plaintiff has complied with NMRA, Rule 1-004(J), which provides that a court may order service by publication where a plaintiff shows by affidavit that service cannot otherwise reasonably be made. The Court further finds that Plaintiff has complied with NMRA, Rule 1-004(K) by attaching to the Motion a copy of the proposed notice to be published. (Doc. 22-2) (Exhibit B). Finally, the Court finds that Plaintiff has made a sufficient showing that service by publication is appropriate because "the defendant, being aware that [a] civil action may be instituted against him, attempts to conceal himself to avoid service of process." *Clark v.*

*LeBlanc*, 1979-NMSC-034, ¶ 7, 593 P. 2d 1075, 1076; *see* (Doc. 22) at 5-7 (outlining steps taken to serve Defendant Harrison by process server, private investigator, and commercial courier, indicating Defendant Harrison made efforts to evade service). Therefore, the Court grants Plaintiff's Motion as to her request to authorize service by publication and to extend the time for service on Defendant Harrison by four weeks from the date of the Court's Order. The Court denies without prejudice Plaintiff's request in the alternative that the Court to find that service has been accomplished under NMRA 1-004(F)(1)(b).

IT IS THEREFORE ORDERED that Plaintiff's Renewed Motion Authorizing Service by Publication, (Doc. 22), is GRANTED in part, and Plaintiff may publish the Notice attached at Document 22-2 (Exhibit B) for three consecutive weeks in the Albuquerque Journal and Newsday. The service deadline under Fed. R. Civ. Pl 4(m) is extended to four weeks after the date of this Order. Plaintiff's Motion is denied without prejudice as to all other requested relief.

IT IS SO ORDERED.



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KEVIN R. SWEAZEA  
UNITED STATES MAGISTRATE JUDGE